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THE STRUGGLE AND RISE OF POPULAR POWER IN PENNSYLVANIA'S FIRST TWO DECADES (1682–1701).

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IN a letter written about eight months before his death, Thomas Jefferson called William Penn, "the greatest lawgiver the world has produced; the first, in either ancient or modern times, who has laid the foundations of Government in the pure and unadulterated principles of peace, of reason, and of right" (*Haz. Reg.*, xvi, p. 48). This cannot be accepted as strictly true in every respect. There is the note of complimentary exaggeration in it. But so high an encomium, from such an eminent authority, should challenge thoughtful attention. Penn's capacity for the government of a large people was never tested. His frames of Government were sufficient for provinces; but unsuited to communities made up of millions. They also had serious internal defects. The appointive power was disproportionately large and poorly counter-checked; the representative feature was sparingly bestowed and somewhat uncertainly granted; the people were much curbed and restricted politically, and their Government frequently galled them.

Step by step the people attained unto their rightful estate, but they succeeded in doing this only after they won four successive charters from their proprietor, each (except one retrograde instance) more liberal than the preceding one. It took nearly twenty years, but in that time they lifted themselves from a Government *by the proprietor*, for the people, to a proprietary Government of the people, *by the people*, for the people. The last of these charters or frames of Government they secured to themselves in 1701, and under it they lived until, in the Revolutionary War, all our Colonial Governments were ended, and the United States conceived.

Under his charter of March 4, 1681, from King Charles II., the part which Penn was *obliged* to allow the people to take in the Government was very small. The people were limited to the approval or disapproval of such laws as Penn and his advisers proposed; but they could not propose nor originate any laws themselves. And even this right could have been restricted by Penn to a few prominent people. The King's charter gave him and his heirs the right to assemble *such sort* of freemen and in *such form* and at *such times* as seemed to him best (*Sec.* 4). He could have assembled the people only at long intervals, or at an inconvenient place, or allowed only a few delegates to represent them, or allowed no representatives at all, but required the people to meet *en masse*. He could have limited suffrage,—the people's right to act,—their right to approve or reject laws—to a few influential men. Under certain conditions he could have ignored the people, dispensed with an Assembly, and by himself and his magistrates made ordinances instead of laws (*Sec.* 6).

Penn and his heirs had full power, in person or by deputy, to appoint and establish all judges, justices, magistrates, and all other officers whatsoever, for what cause soever, and with what power soever should seem convenient; had plenary power to remit, release, pardon, and abolish crimes; power to do everything needful to a complete establishment

of justices and courts, the tribunals, forms and manner of proceeding (*Sec.* 5); had the right to divide the provinces into counties, towns, etc., and select all the officers to rule therein (*Sec.* 10); the right to erect ports and regulate trade under British law (*Sec.* 12), and to take and enjoy the customs, subsidies and tariff duties, collected from importers and exporters (*Sec.* 13); the right to levy, muster and train any of the inhabitants and make war in or out of the province (*Sec.* 16).

By the King's charter Penn and his heirs and assigns were granted also the full and undisturbed use, command, and control of all the bays and harbors; the ownership of all the fish, and the whales, all the herbage, woods and animals of the province (*Sec.* 2); and title to all the lands, waters, and (except the King's one-fifth) all the minerals (*Secs.* 1 and 2). He and his heirs were also granted the right to sell all the lands by any sort of estate and any reservations of rent he or they might choose (*Sec.* 17).

In addition to the right to approve or reject laws proposed by Penn and his associates, the people had a right to a voice in fixing the rate of import and export duties because that affected trade (*Sec.* 13); they had a few very minor rights in local Government, but very few indeed (*Secs.* 10 and 19).

Thus under the King's charter to Penn, the rights of the people and the chief ruler in legislation were the reverse of the practice to-day. Now the people decide what laws shall be passed and propose and initiate them, and the executive is limited to approving or disapproving; but in Penn's earliest days in Pennsylvania, the proprietor, or the Governor and Council representing him, proposed and initiated all the laws, and the people were confined to approval or disapproval alone. We observe, too, that under his charter Penn practically held the Government of the province in the hollow of one hand and its ownership in the other. All this was crowned in the last clause of the charter by the provision that any doubt as to the true meaning

of anything in that instrument must be resolved in favor of Penn (*Sec.* 23).

The effect in brief of what we have just stated was:—the people could be compelled to submit to a judiciary and its judgments which they had no hand in electing or establishing (*Sec.* 5), to a system of ordinances, in the creation of which they had no part, instead of laws (*Sec.* 6); to social, political and industrial conditions for the relief of which they could not originate a single law; and to such grants or leaseholds of lands, and such reservation of rents as the proprietor saw fit to make, impose or reserve. In these matters the people and their wishes did not need to be consulted.

Penn eventually succeeded in getting a fair-sized colony in England to agree to come over with him; and before they departed they worked out, and he drew up and signed, April 20, 1682, a Frame of Government guaranteeing them certain rights; and May 5th, of the same year, at a conference with them in England, they agreed upon a body of temporary laws to put the Frame in force.

In this "Frame" he did not limit the people to the smallest exercise of power which he might have done under the charter. He provided that the people in an Assembly and Provincial Council, both elected by themselves, should take part with him in making all laws, choosing all officers, and transacting all public affairs (*Sec.* 1). The freemen were to meet February 20, 1683, at such place of which Penn would give them notice and choose 72 wise, virtuous and able men to be a Council (*Sec.* 2), and 200 to be the Assembly (*Sec.* 14), and annually one-third of both bodies should go out and a new third be elected. Penn reserved the right to himself, and his heirs, and his deputies to preside over Provincial Council and have a tripple vote therein (*Sec.* 6).

This Council, acting with Penn, prepared and proposed all laws, and (*Sec.* 7) put them into execution when passed (*Sec.* 8); had charge of the peace and safety (*Sec.* 9); had the creating and ordering of cities, ports, markets and roads

(*Sec.* 10); supervision of the Treasury (*Sec.* 11); creating and control of schools and granting of patents (*Sec.* 12); the erection of Courts, Judges and Judicial procedure (*Sec.* 17). To carry out these powers Council was divided into four committees of 18 members each,—a committee of plantations, to regulate cities, ports, roads and business; a committee of justice, to secure peace and punish law-breakers; a committee of trade and treasury; and a committee of manners, education and art. While this Council with its large powers was elected by the people, it did not long represent the people, but quickly became the strong right arm of the proprietor. But the power which Penn allowed the people in the Government in reality, was wider and more liberal than that which his charter required him to delegate. The 200 Assemblymen to be elected by the people could reject or approve laws proposed by Penn and Council (*Sec.* 14). They and all the people were entitled to see copies of all laws intended to be proposed by Council, posted 30 days before being called to act on them (*Sec.* 7). They were then to sit and confer eight days upon those laws and confer with a committee of Council, if they desired, and on the ninth day approve or disapprove them (*Sec.* 14).

The people also could elect a double number of candidates for sheriffs, justices and coroners, out of which the proprietor or his deputy could select those he desired within four days, otherwise the one receiving the highest vote should be considered elected (*Sec.* 17). But Penn provided in this Frame of 1682, that while the people were given this right to nominate candidates for judges, treasurers, sheriffs, etc. (as just stated) the present conditions required immediate settlement, and therefore, Penn himself should appoint all the present judges, treasurers, masters of rolls, sheriffs, justices of the peace and coroners, and the appointees should be for life or good behavior, and after death or removal the people could participate. Thus during the first several years the people had no voice in this part of the government (*Sec.* 18).

The Assembly, acting for the people, were given the right to impeach criminals (*Sec.* 19). But they were subject to dismissal by the Governor and Council at any time after nine days sitting, and thus could not sit upon their own adjournments, a subject very dear to Legislative Assemblies. They could also be compelled to reassemble at any time within a year that Councils commanded them to do so (*Sec.* 19).

Nor could the people secure a change or an enlargement of rights without the consent of the proprietor, his heirs or assigns or deputy and the consent of six-sevenths of the council (*Sec.* 23). The people had one guarantee, however, and that was that this "Frame" could not be changed without the consent of six-sevenths of the Assembly.

In the laws agreed upon in England between Penn and the first settlers, the next step toward popular power appears. It was enacted that those owning 100 acres of land, servants who were entitled to freedom and those who pay scot and lot were to be freemen (*Sec.* 2); that elections must be free and voluntary, without vote buying and selling; that the Provincial Council and Assembly shall each be the judge of the regularity of the election of their own members (*Sec.* 3); that no tax shall be laid or collected by ordinance, but all by laws passed (*Sec.* 4); that Courts shall be open to all and that all be allowed to appear peaceably and plead their cases in their own way (*Secs.* 5 and 6); that proceedings be in English (*Sec.* 7); trials by jury (*Sec.* 8); and that all matters of public concern, not mentioned, be referred to the order, prudence and determination of the governor and freemen in Provincial Council and General Assembly (*Sec.* 40).

Then at Chester, December 7, 1682, all those who lived in Pennsylvania before Penn arrived were naturalized. At the same place, the same day, was passed the "Great Law" guaranteeing liberty of conscience (*Ch.* 1); punishing sedition (*Ch.* 27); punishing speaking slightly or abusively of or to magistrates (*Ch.* 29); again defining and confirming freemen in the right to vote (*Ch.* 57); and re-enacting the

right of the freemen with the Governor and Council to determine all things not mentioned specifically (*Ch.* 61); and many other matters.

In this first meeting of Governor and Proprietor, his advisers, or Council, and the Assembly, as representatives of the people, and some of the people themselves, at Chester, in December of 1682, where the statutes which I have just mentioned were worked out and enacted, we shall see how ready the Assembly were to step beyond the limits of the Frame and the laws agreed upon in England, and how inclined to exercise the unwritten law of Assemblies, "the ancient and undoubted rights and privileges of the people" as they call them. This was a further step in the rise of popular power in Pennsylvania.

The Assembly, as soon as they organized, selected a committee on election and privileges, and a committee on justice and grievances; and the first named committee brought the Sheriff of New Castle to account for a fraudulent election, unseated the man returned, and swore in his opponent (*Votes of Assembly*, vol. i, p. 1). They defied the "Frame," and indeed the charter to Penn, which provided that all bills shall be proposed by Council and the Governor, erecting a committee to manage and bring in all bills, called a "Committee of Foresight to Prepare Bills" (*Do.*). They then sent an address to the Governor asking him to send them copies of the "Frame" and the "Laws Agreed Upon in England," and his proposed laws desired to be passed at the session, which they called his "Constitutes" (*V*, i, p. 2).* They debated whether they did not have power to fine all manner of delinquents, whether members of Assembly or not, and whether they should be satisfied that the Governor should have a treble voice as allowed by the 6th Article of the "Frame." They took up and decided the question whether they had the right to sit by committee of the

*V, means Votes of Assembly; *C*, means Colonial Records; *Fr.*, means Franklin's History of Pennsylvania.

whole, declaring they could (*V*, i, p. 2). They decided they had power to grant a sheriff a two-days' leave of absence from duty (*Do.*). They decided they had power, not only to approve or disapprove bills, but to *amend* bills, and made rules for the purpose (*Do.*). They decided not only that, but that any member could offer, prepare, and propose any bill, public or private, tending to the public good, except as to levying taxes (*Do.*, p. 3). They entertained a petition from the three lower Counties on the Delaware for a "Union" with the Province and approved it. They debated whether the "Frame" and "Laws Agreed on in England" be accepted here and approved them. They struck out 15 laws of the body of the "Great Law," now proposed by Penn. They even presumed to vote whether the Lord God of Heaven and Earth is the Lord of Conscience and the Father of Lights, as Penn asserted in his proposed "Great Law," and decided that He is, and approved the declaration as a good preamble to that law which they were now about to pass. They did various acts of a vigorous character, which plainly showed that they meant to be, not only the approvers or rejectors of bills, but the live, active initiators of the public measures—the provincial policies and legislation of Pennsylvania.

The people were jealous of all their political rights. In the winter of 1682–3 they did not succeed in electing more than 72 men for Council and Assembly, while the "Frame" provided they should elect 272, being 200 for Assembly and 72 for Council. They requested that of the 72 elected, 18 be members of Council and 54 Assemblymen; and when they met, March 10, 1683, begged Penn that he would not, for this reason, regard the Frame or Charter rejected (*Col. Rec.*, i, p. 58).

They next became suspicious of themselves. They were suddenly awakened to the fact that one-fourth of the legal number of representatives were carrying on the Government. Many considered the 72 who were met, an illegal body—usurpers—not acting under the Constitution, but for-

feiting it. Nicholas Moore, President of the Free Traders Association, and a powerful figure in politics, proclaimed that in this act Penn and the Council and the Assembly elected had broken the Charter given by the King, and the "Frame"; and said all their acts were void; that their children would curse them for what they had done, and that they may be impeached for treason (*C*, i, p. 59).

In March, 1683, the Assembly boldly and formally resolved that they should have the right to *originate* legislation, and petitioned Penn accordingly (*V*, i, p. 7). This gave rise to a hot debate in the Assembly, as a few members held it showed ingratitude to Penn. They said he had already given up too much of his power. Penn felt the popular pressure and suggested the "Frame" be amended for the good of future ages (*V*, i, p. 8).

Penn feared the rising power of the people. He insisted on an amendment of the Frame to prevent any law being passed inconsistent with the King's charter (*C*, i, p. 59). He feared the people would "take the bit in their teeth" and run away with his Government, or forfeit his charter; and March 15, 1683, he demanded that each Assemblyman give him security that they would not forfeit his charter rights by legislation (*C*, i, p. 60). They refused, but agreed they would not insist now on the right to propose laws (*C*, i, p. 61). They gave up the initiative for the present. But they insisted they had the right to propose *amendments* or "variations," as they called them, in the "Frame and Laws Agreed upon in England" (*V*, i, p. 10). If they could not propose *new* laws, they could propose *amendments to old* ones. They were jealous of Council. People were more willing to serve in Council than in Assembly. So the body of Penn's councillors was larger than the people's representatives—it was a stronger body than they were. Therefore, March 19, 1683, the Assembly passed an "Act of Settlement," as an amendment to the "Frame," fixing Council at three members for each County (*V*, i, p. 11, and *Duke of York's B. of L.*, p. 123). At this same session Penn asked for an

"overruling vote"—a veto in Assembly the same as he had in and over Council; but the Assembly would not grant it (*V*, i, p. 10).

The session did not end without some great fundamental legislation. The "Great Law" consisting of 79 statutes was passed, among other things, providing that freemen may not be imprisoned except by jury; providing also a code of civil and of criminal procedure; police regulations; and curbing sumptuary legislation somewhat.

Penn, at this time, also shaped up a new charter out of all the laws and the charter and variations that had been before adopted. This was dated April 2, 1683; and it was accepted the same day by Council, Assembly and the people present. This charter was intended to be an effective curb upon popular power. In it Penn was careful to put the clause that all laws are to be proposed by the Governor and the Council, and the Assembly only to concur or reject. The Assembly were subject to dismissal and under the control of the Governor and Council; and this could not be changed without the consent of the Governor and six sevenths of Council and Assembly.

The additional power which Penn and his Council strove to secure in this new charter of 1683 is evident in the proceedings. Council voted favorably on Penn's proposal that he could choose all officers during *his* life, instead of the same being elected after the present appointees die (*C*, i, 69). It was the Council, not the Assembly who proposed the new charter (*C*, i, 70). March 30th, Council voted that a public tax be laid on land to defray expenses, but hitherto it had been understood that Penn was to bear a large part of the expense out of the customs, rents, etc. (*Do.*). April 2, it was decided Penn should retain his tripple vote (*C.* i, p. 72). Same day the old charter was surrendered to Penn (*Do.*). The people, or at least their Assembly, early regretted the change in the charter.

The principal differences between the old and new charter were:—The Assembly, limited to 200 and the Council to 72

by the old charter, were reduced to 36 in Assembly and 18 in Council by the new charter. The Assembly, which was nearly three times as large as Council in the old charter, was not allowed to be more than twice as large in the new. In the old, the Assembly could be increased to 500 members as population increased, but Council could not increase beyond the initial 72. Assembly could thus become seven times as large and as strong numerically as Council; but in the new charter Council would be increased in numbers as well as Assembly as time went on, the Council from 18 to 72, and Assembly from 36 to 200, and thus the latter could not become quite three times as strong numerically as the Council. Under the old, the Assembly could not be compelled to meet anywhere but in the capital town of the province, but in the new, the Governor had a voice in ordering a meeting elsewhere. Under the old charter Penn had authority to appoint the first complement of Judges, Sheriffs, Justices, Coroners, and the first Treasurer and Master of the rolls, to hold office during their life or good behavior; and upon death or removal of any, the people should thereafter fill the vacancies by election. Under the new charter, Penn had all the right to make the first complement of appointees and also to appoint their successors in the case of death or removal, during his (Penn's) life. This delayed the people's participation in filling these offices until the death of Penn, no matter how many officers died or were removed by him during his life. He could completely control in the hollow of his hand—placate, punish, and rotate officers as he saw fit during life. Under the old, as fast as one vacancy after another occurred, so fast the power slipped out of his hands into the control of the people. The old charter provided the Assembly should sit as long as needful to pass bills into laws; the new one provided for passing such bills "as are proposed to them," distinctly negativing any power in Assembly to propose laws which, under the old charter, they claimed the right to do. There were some advantages in the new charter over the old, but

a subsequent Assembly pronounced them unreal, and to have been inserted only to mislead the people. The Assembly of 1704, in an address to Penn, accused him quite bitterly for compelling the Assembly of 1683 to accept the new charter and then not allowing it to be amended, saying the reasons were not good (*Franklin's History*, p. 10); that the old one was set aside contrary to law (*Fr.*, 11); that he had no right to a negative on bills (*Fr.*, 11); that he had no right to give the lower Counties of Delaware the same number of representatives as the province, because they deadlocked all legislation (*Fr.*, 7); and that the Charter of Frame of 1682 was laid aside by Penn by artifice deeper than some could fathom (*Fr.*, 8).

At the session of October, 1683, the Assembly found they had this new charter to contend against, but they began at once to force more popular power, and to show increasing jealousy for the rights of the people and their representatives. By a single stroke they broke the restraints in that constitution which denied them the right to prepare and propose laws. Because they were commanded by Council to sit on jury duty, which they contemptuously refused, and defied the Sheriff who summoned them, (*C.* i, p. 87, and *V*, i, 23), they at once *framed a bill and passed it* declaring that neither Council, Penn nor any one else (*V*, i, 23), had any right to interfere with them while attending their duties, nor summon them, nor bring any suit against them. They and their constituents induced Penn to agree that at the beginning and end of each Assembly the people had the right to come into the hall and hear what was proposed and done (*C*, i, 85); and they capped the climax by asking Penn for the referendum pure and simple, requiring a law that the statutes intended to be passed should be sent to each county-seat before the meeting of Assembly, where the Assemblymen of each County should meet the people and receive instructions which they should obey (*V*, i, 23). Penn's opposition to this caused great public dissatisfaction (*Franklin's Hist. Pa.*, 10).

Popular power was very much feared by the aristocratical side of the Government about this time. January 16, 1684, Penn himself ordered Anthony Weston to be whipped for making certain recommendations to Council of a political nature, and some of his associates put under bonds (*C*, i, p. 92). In 1686, Atken's Almanac was suppressed because of an article entitled, "Beginnings of Government in Pennsylvania by Lord Penn" (*C*, i, p. 165). And in September, 1692, William Bradford's printing press was confiscated for violating popular criticisms of the Government (*C*, i, pp. 366 and 367).

In 1684 Penn, fearing the popular branch, insisted that the membership of his Council be largely increased, and that he be allowed to choose them, instead of the people electing them (*C*, i, p. 98). And about the same time Assembly insisted they be allowed to confer more freely with their constituents on grievances and proposed legislation (*V*, i, p. 29). This Assembly also began a new form of defiance of Penn because they were not allowed to originate any laws—they refused to act on laws Penn and Council sent them (C, i, pp. 106 and 107). They also began amending bills sent them and the Governor and Council rebuked them and told them they had no power to amend, but could simply reject or approve since the Frame of 1683 (*C*, i, p. 108). The Assembly were very wroth, and the Speaker declared the laws that Council proposed were "cursed laws" and John White, an Assemblyman, in open Assembly, very profanely condemned them (*C*, i, p. 109). The Assembly next insisted that if they could not propose or *amend* they could *repeal* laws, and they proceeded to do it (*C*, i, p. 109). The Governor and Council denied this position and said they aimed to repeal the Constitution (*C*, i, p. 411).

In 1685, the Assembly insisted that they had supervision over the Supreme Court's action and impeached Nicholas Moore, Chief Judge (*C*, i, p. 121) for holding that the Court was not accountable to Assembly (*C*, i, pp.135 and 137). They demanded of Pat. Robinson, Clerk of that Court, to produce

the records before Assembly; and because he said he would not do so unless the Judges ordered it, they promptly arrested him and declared it was their undoubted right to arrest all persons who refuse to obey them (*V*, i, p. 34). They then brought in the records and examined them and pronounced Judge Moore a corrupt, aspiring minister of State (*V*, i, p. 36).

The Assembly of 1686 pushed popular power still a little higher than that of 1685. They demanded satisfaction from Council for presuming to command a member of Assembly to appear before Council (*C*, i, p. 177, and *V*, i, p. 36); they indignantly refused to receive a *committee* from Council, insisting that they would treat only with the *whole* Council (*C*, i, p. 177); they ordered Council to proceed to try the impeachment of Judge Moore, and insisted that it be done before any laws are acted on (*V*, i, p. 37); they gave notice to Council that henceforth they will exercise such right of amendment as they see fit (*V*, i, p. 38); they struck a blow at Penn's quit-rents (*C*, i, p. 182); and they refused to act on laws sent them by Council (*C*, i, p. 183). The result was the Session ended in a deadlock (*Do.*, p. 184). The Assembly, by not agreeing to continue some fundamental laws about expiring, endangered and made the charter of 1683 partly inoperative, and this was their object. August 25th of this year, a new power first appeared on the people's side in infant Pennsylvania—a brave, fearless and rugged commoner, a jealous defender of the liberties of the people—David Lloyd. That day he presented his commission as Attorney General of the Province (*C*, i, p. 188).

Now came the Assembly of 1687. Council refused to admit certain of its members because of criminal complaints pending against them; the Assembly presumed to command that Council should admit them, that the people were entitled to it (*V*, i, p. 40). Council said it was no affair of the Assembly's. The Assembly ordered Council to pay more attention to opening highways; in other words, to discharge their duties more faithfully (*V*, i, p. 42, and *C*, i, p. 204).

Finally the Assembly determined to disregard Council, sit on their own adjournments, and dismiss themselves, which they did.

The Assembly of 1688 found a stubborn Council to deal with. They resolved to break its spirit. They demanded that the whole Council should receive the Assembly by committee (*C*, i, p. 223), forgetting that two years before they refused to receive Council by committee, and would receive nothing less than the whole Council. Council warned the Assembly that if they attempted to do anything but approve or reject laws proposed, or attempted to resolve into a committee, they, the Council, would dissolve the Assembly. The Assembly immediately put all of their members under an oath of secrecy so that Council could not have any knowledge of their proceedings, and Council declared they were assuming prerogatives that did not belong to them and were a close Assembly bent on bad purposes (*V*, i, pp. 43 and 44). The Assembly determined to make themselves the judges of the election and qualifications of members of Council, and grilled them for not admitting one of their members (*V*, i, p. 44). And May 19th, they adjourned themselves (*V*, i, p. 47).

John Blackwell, appointed by Penn to be Deputy-Governor in his absence, appeared December 18, 1688, and thus the year 1689 opened with a fresh bone of contention. The people almost rebelled against Penn for sending a deputy. When Penn went to England in 1684, he left the Council in charge representing him, and that Council made Thomas Lloyd, one of the best loved men in Pennsylvania, president. Thus during these four years the whole government was in the hands of the people (at least technically so), both Assembly and Council being elected by them. The people were satisfied that Penn should preside over the Council and be the head of the government, and after him, that his heirs should do so, but they would not agree that while Penn lived he could hand that position over to a deputy, and Assembly, Council, and the people all rebelled against Blackwell.

Both houses called him to his face and treated him as an intermeddler (*C*, i, pp. 244 and 257). Blackwell did all he could to curb popular power. He wanted charges to be brought against Thomas Lloyd, Keeper of the Great Seal, because he would not give it up (*C*, i, p. 271); but several members said they had too great a love for Lloyd to act against him, and rejected the proposal to impeach him, says the Record, "in such warm expressions as are not fit to be recorded" (*C*, i, p. 272). On February 9th, Blackwell, in Council, said he got hold of a little book printed and distributed among the people entitled "The Frame of the Government of this Province." He was shocked that anyone would have the audacity to print the charter. On deeper inquiry, Joseph Growdon, a member of Council, admitted he had ordered a lot printed and distributed (*C*, i, p. 278). Blackwell asked Council to prepare charges against Growden; but all remained silent. He said that it was a dangerous act, and that while there were certain things in the charter the people might know, it was better they should resort to the Keeper for information. Symcock replied that it should not only be printed, but the charter ought to be taught to the children, and Penn would have it so taught (*C*, i, p. 279). This shows the temper of the times. One member of Council accused Blackwell of ordering elections illegally, and another declared that he refused to allow them to be judges of their own elections (*C*, i, p. 282). About the middle of April his Council deserted him.

Then the Assembly took a hand formally and accused Blackwell of disintegrating his Council purposely to give himself more power and to override the people (*V*, i, pp. 49 and 50). They refused to annul laws which Blackwell insisted must be annulled, viz., all that were passed since Penn left in 1684 (*C*, i, p. 288). They warn him he is trampling on our rights by not allowing Council to sit (*C*, i, p. 292); he tells them they are not the judges of his proceedings (*C*, i, p. 293). The Assembly threaten to go back to the old charter of 1682, because he enforces the provisions of the

charter of 1683 tyrannically. He then refuses to receive any communications from them. The Assembly next turn on the offensive and attack Blackwell's commission (*V*, i, p. 53). They declare they will not submit longer to unlawful proceedings over them; that Penn's absence is prejudicial to the people's rights; that it is not true that he commanded the laws passed in his absence to be dropped; that the method of laws being passed by Penn and being simply assented to by the Assembly is obsolete, and in its stead is the method allowed by the Charter of 1682 and Act of Settlement; that the Assembly may originate and pass laws as they choose, which they have been following; that they will not submit to any laws passed by that old charter method of 1681; that all the laws passed are in full force, and will be regarded so until the King himself says otherwise; and that they will not longer suffer the elected members of Council to be prevented from sitting.

This same Assembly arrested several judges for issuing warrants for members of Assembly, and declared the judges by that act "broke down, slighted and trod under foot the rights, freedom and liberties of every freeman" in Pennsylvania (*V*, i, p. 55). They ordered that the last charter of liberties be printed and distributed. They sent a message to Council that they refused to be dismissed until the people's wrongs were righted, and certain authors of arbitrariness in government are punished (*V*, i, p. 55).

All these were particular phases of one general contest which the people were waging—to get rid of Blackwell. The constitution did not provide for a stranger at the head of the government; and they held that when Penn was absent the government was in the people's hands. They forced Blackwell out, and when they did, popular power had again triumphed.

Penn recalled Blackwell, and in 1690 sent two commissions to the province—one empowering Council to select three persons out of whom Penn would choose one to be deputy-governor, and the other making Council, as a whole,

his deputy, with power to select a president from their number. The people accepted the latter. Penn also wrote, "I throw all matters into the people's hands" (*C*, i, p. 317). Penn felt that popular power was rising in the province, and about the beginning of 1690 he wrote, "Is my interest already rendered so opposite to that of the country; and those employed by me such bad men that it is impossible they can serve the country and me together?" (*C*, i, pp. 319 and 320).

Thomas Lloyd was unanimously chosen President by the Council (*C*, i, p. 323). The people had charge of the whole government again. This Council was respected by the Assembly, and for three years there was harmony and progress, and very mild administration.

But the Province now acquired the habit of ignoring England's demands for money, soldiers and defense, and thus in 1693, the British sovereign took Penn's government out of his hands and put it in the charge of Benjamin Fletcher, as Royal Military Governor, because of "neglects, disorders, and miscarriages in Penn's administration." He appeared April 26th (*C*, i, p. 364); and in him the King and Queen assumed indirect charge of Pennsylvania's government (*C*, i, p. 353).

Popular power in Pennsylvania is now reduced to very meek proportions. The chief diminutions and suppressions of popular power and control as ordered by Fletcher's commission were: Fletcher should have full power and authority, with the advice and consent of "our" Council, to call the General Assembly of the Province, according to the usage in New York; all those Assemblymen elected were to take the oath required by the Act of Parliament instead of the obligations of supremacy; all laws to be transmitted to England within three months, and if disallowed, void; Fletcher to have a negative or veto over Acts of Council and Assembly—a power from time to time to prorogue and dissolve the Assembly—a power, with advice of Council, to establish all Courts, Judges, etc., and all officers—a power to

levy, muster, arm, command and employ soldiers, transport them, and make war, execute martial law in case of insurrection, build forts and castles and fortify towns, exercise power of Captain-General, nominate a Lieutenant-Governor, appoint all his councillors, and such and so many as he may desire, not over 12—suspend the Lieutenant-Governor, or any member of Council, if he find cause; and if he die, the Council of New York to be the head of Pennsylvania's government (*C*, i, pp. 353 to 357).

Fletcher found a stubborn people to deal with. He offered the Lieutenancy to Thomas Lloyd but he would not accept it (*C*, i, p. 364). He then appointed Markham (*C*, i, p. 352).

One of the first acts of Fletcher and his Council was to discard the old Constitution, which fixed the number of Assemblymen; and instead they settled by Council how many Assemblymen should be chosen. They decided there should be four for Philadelphia County and New Castle each, and three for each other County (*C*, i, p. 366). This was the smallest number ever fixed; and it was designed to break their spirit. Seven of the ex-members of Thomas Lloyd's Council addressed a letter to Fletcher begging him in behalf of the freemen, that no method be used in electing the Assembly but that provided by the ancient law and Constitution; but he paid no attention to it (*C*, i, p. 370). The Constitutional numbers and powers of Assemblymen fixed by the old laws, were both ignored and disregarded. Six justices of the peace refused to serve, and man after man to whom the places were offered refused them (*C*, i, p. 371). Council adjourned May 16th to June 3d, and paid no attention to the Assembly at all (*C*, i, p. 375).

May 16th, Assembly met but with the reduced number of members as allowed by Fletcher. They were a very tame body (*V*, i, p. 65). One of their earliest acts was to resolve that their laws in force before Fletcher came are still in force (*V*, i, p. 66). They drew an address to Fletcher asking that the people's ancient rights might be preserved (*Do.*). Fletcher demanded a copy of the Assembly's journal every

night (*C*, i, p. 400); and in answer to their address asking a confirmation of the laws, he told them that they were very much mistaken in alleging the laws to be in force, and said if Penn's laws are in force and could be brought into competition with the great seal of England, he (Fletcher) had no business in Pennsylvania; and that many of their laws were repugnant to the English Constitution (*C*, i, p. 402). He cautioned and told them that they could not longer elect members of Council, but he will appoint them; that the Council and the Assembly could no longer have a negative or veto on laws, but that such power now belonged wholly to him; they could no longer elect a double number of candidates for Sheriff and other officers, but that he will appoint all such officers himself. He also said that many privileges granted to Penn and the people in King Charles's charter were now void, because King Charles was dead and those charter rights died with him; that they were personal prerogatives of the King, and one King cannot grant them away with such effect that a succeeding King shall be bound to be deprived of them. Such were the revenues of the crown, royalties, making laws, powers over life and death, arming the subjects and making war, etc. All Penn's power over these was entirely gone and lost (*C*, i, p. 402). But finally he told the people that with his commission and coming, both their laws and their forms and model of Government were at an end, (*C*, i, p. 402). The Assembly said that they were surprised to know their Government was at an end as under the Great Seal they thought it lived after the death of King Charles.

The Assembly now had a harder task than they ever had heretofore encountered—defending their old laws and what they could of their old liberties, from ruin. Fletcher told them that their laws were at an end. They examined 200 of them and find they can drop 104, if they can save the 96 (*C*, i, p. 413). These they save. Much of his time Fletcher was compelled to be in New York, and he appointed William Markham to preside over Council in his

absence (*C*, i, p. 419). He told the Assembly, too, that the laws were void. Good old Thomas Lloyd replied, "We can judge if they are void or not; we who made them, no one else." Samuel Carpenter said he would lose everything before he would give up the laws (*Do.*).

It is surprising how quickly men will give up principle for power. Markham and those who composed his Council in 1692 were patriots; but when under the strong arm of Britain, by Fletcher, they were appointed the King's Council, they turned traitors to the popular cause. But the Assembly at once began the battle. They resorted to the method that Assemblies from time immemorial have used on Governors, Presidents and even on Kings, to bring them to terms—they refused to pass any bills appropriating money until the Governor would make them promises and pass laws to relieve the grievances of the people (*C*, i, p. 426). They insisted, if they are under the laws of England and not under their charters, they have the full rights of the House of Commons and can originate and propose laws as they see fit, and have the right to withhold money until their grievances are remedied (*C*, i, pp. 426 and 427). Thomas Lloyd boldly said, " To be plain, the Assembly will not pass any bills until they know what is to become of the other bills now in the Governor's hands." White said the same (*C*, i, p. 427). The Governor said he will not grant any of their bills for all the money in their country. (*C*, i, p. 430).

Fletcher now having returned to Pennsylvania for a season, attacked the people's right to elect a yearly Assembly; but said he will agree *as a favor* to call the Assembly yearly. He said he can call them as he sees fit, and that if he gets a good Assembly he will likely continue it from year to year, and not give the people a chance to elect a new Assembly yearly (*C*, i, p. 430). He said the people must not insist on any laws providing for election of officers any longer, as the King has given him the right to appoint them. He would dissolve the Assembly whenever he saw

fit. He threatened if they did not obey him he would have Pennsylvania annexed to New York (*V*, i, p. 76). He begged his unpatriotic Council to use their endeavors so that only such Assemblymen be chosen as are "best affected toward His Majesty's Government" (*C*, i, p. 385).

Now the second year of Fletcher comes on in 1694. When the Assembly re-convened on April 10, 1694, they presented the following grievances: That their petition of rights was ignored (*V*, i, p. 78); that appeals are allowed from law to equity before the same Judges; that taxes are raised and collected in the discretion of the Justices of the Peace without the approbation of the Grand Jury or the people (*V*, i, p. 78); that he has taken away the power of the Assembly to adjourn itself, which right he must give to them again (*C*, i, pp. 454 and 455); that they are convened out of their proper time, and by Fletcher's writ, instead of the Constitution, which is against the people's liberty, and without power even in the King's and Queen's commission (*Do.*).

May 22d, Markham, acting for Fletcher, tried to adjourn the Assembly, but in the presence of Council they defied him, and insisted they had the right to adjourn themselves (*V*, i, p. 80). They compelled Markham to yield, and sat on their own adjournments (*C*, i, p. 454). And by June 2d, they forced Fletcher to agree that six of the old laws he first opposed shall be considered in force (*C*, i, p. 466). June 8th, they assert that they have the right to originate all money bills and to lay taxes and appropriate them for such objects as they choose, etc. (C, i, p. 470). Being defied in this way, they refuse to vote money to Fletcher, though he warns them they have sat nineteen days and ignored him and the King and Queen (*C*, i, p. 470). And as to Assembly, Fletcher's stormy term ends with them insisting that they have the right to fix fees, etc., and Fletcher denying it, saying that belongs to the Governor and Council (*C*, i, p. 471).

Deliverance came at last. March 26, 1695, Markham appears before Council with an Act of Restoration of the Gov-

ernment to Penn from the King, and a commission from Penn making Markham Deputy-Governor (*C*, i, pp. 472 and 473). The people again have charge of their government. They make no scruple now about a Deputy-Governor in Penn's absence, as they did in Blackwell's advent in 1688. They had learned a bitter lesson. But now legal confusion reigned. It was not known what former powers were dead, and what alive, and particularly whether Penn's charter from the King in 1681, which Fletcher said was dead when King Charles died, or the charter of 1683 were again in force or not. Therefore, a committee was appointed to draw up a new form or model of government (*C*, i, pp. 485 and 486). The committee found they could not reach a conclusion, and it was decided to treat the charter of 1683 as in force. An extraordinary session of Assembly was called September 9th (*C*, i, p. 488); and it was made up of six members from each County. Markham addressed them, and said the custom of Council proposing all laws was obsolete (*C*, i, p. 489). It was decided that either Assembly or Council could now originate laws (*C*, i, p. 491). But Markham held on to the power to dissolve the Assembly when he saw fit (*C*, i, p. 496).

Nothing of importance happened until the fall of 1696. Then Council again became arbitrary and the result was the people forced a New Frame of Government, somewhat like that of 1683. Council took the view that the Frames of 1682 and 1683, must be disregarded, and the Government be run according to the powers of the King Charles charter of 1681. This charter greatly curbed popular power as we noticed at the outset. Council reduced Assemblymen to four for Philadelphia County, four for New Castle and three for each other County (*C*, i, p. 497 and *V*, i, p. 93). They called the Assembly by their simple writ and out of time. They obeyed, but protested and demanded to be settled in the Frame of 1682 or that of 1683 again (*V*, i, p. 94). Markham said, " You are a very silent and close Assembly which I believe is a jealousy that I will take away your

charter. I called the Assembly by the powers of the King's patent, because Council think the Frames of Government not in force, and must be re-enacted (*C*, i, p. 506) and according to that same Patent I now dissolve you" (*C*, i, pp. 505 and 506).

This led up to the granting of a new Frame by Markham, November 7, 1696 (*C*, i, p. 507). It was intended to operate only till Penn, who was soon expected, should arrive.

The new "Frame" of 1696 made the following changes from that of 1683. There were to be two members of Council elected by each County and four members of Assembly—the freemen, and free denizens over 21 years of age, owning 50 acres of land, and for two years or more resident in the province, had the right to vote—affirmations, attestations and declarations instead of an oath were provided for, but all officers of the province must profess Christian belief—the Council and the Assembly were to be the Judges of the qualifications and the election of their own members; the deputy governor was required to preside over the Council, and had no power to act in anything, especially anything affecting justice, trade and the treasury without the major part of the Council approving the act; the Council was to act only upon two thirds (or over) as a quorum in all matters presented by the Assembly; the Assembly was given full power to prepare and propose bills to become laws, the same as Council could do; the Governor and Council should not be debarred from recommending bills; the Council and Assembly each were given full power to confer by committees; all bills which the Governor by advice and consent of Council and Assembly shall assent to, shall be laws. The Assembly were given the power to sit upon their own adjournments, and by committees, and to continue to propose bills and impeach criminals till the Governor and Council should dismiss them, but be required to meet again on call by the Governor and Council; all persons were guaranteed in their land titles, legal and equitable against any molestation except quit-rents, and no amendments of this character

taking away any of the rights granted, were to be affective, unless agreed to by six-sevenths of the Assembly. It was, however, provided that this charter should be good and valid only until Penn should decide otherwise. And it was not to extinguish any rights that the people had under the charter from King Charles or which Penn granted them before. This charter or Frame was meant to grant rights *in addition* to the rights granted in all former charters, and not simply *in substitution* of them (*C*, i, p. 54).

Nothing of importance happened until Penn arrived again in Pennsylvania towards the end of the year 1699.

January 1, 1700, he quietly appears in Council and suggests calling an Assembly (*C*, i, p. 572). Penn immediately directed his attention to the complaint he heard in England (*C*, i, p. 573) that the charter of 1683 had been set aside, and the members of Assembly reduced from six to four for each county. The chief complainants were Robert Turner, Griffith Jones, Francis Rawle and Anthony Cook, men of the highest standing and first importance in the province. They wanted the full number of Assemblymen to be elected and then a joint meeting to be held of a full Assembly and Council, with Penn, and that a new charter be granted. Penn allowed and ordered this (*V*, i, p. 117). Popular clamor was loud for great additions to the people's part in the Government and April 1, 1700, Penn made a noble speech and said he referred all to the people. He regretted that a false notion had become current that Council are simply his representatives and not the people's. He said to them, "If you want a change in the Constitution, alter it; if new laws, propose them; but do not trifle with government. Away with all parties and look to the public good alone" (*C*, i, p. 596). As to the charter of 1683, Penn said it was not dead; that the charter of 1696 served only till Penn returned, and now that he is back, it is at an end, and the old charter of 1683 is revived (*Do.*).

April 2d, a grand committee of Assembly, Council and Penn, with Growdon as chairman, began working on a new

charter (*C*, i, p. 597). May 10th, the Assembly having again its enlarged membership, met; sat upon their own adjournments, twenty days beyond the old time limit; framed wider powers for the people; insisted that the Assembly alone shall have the power to prepare, propose and originate all laws, which Council resisted as too considerable a power to put in the people's hands (*V*, i, p. 119); this demand they reiterated with more force May 17th, and demanded also the full powers of an Assembly; that the Governor's Council must not be appointive but be elected by the people; and that six of them must constantly attend Penn and curb his acts.

By June 7th, the Assembly were assured the confirmation of certain former fundamental laws, viz., those passed at Chester—the petition of rights presented to Fletcher in 1693, and the laws made since the last date. They then agreed that until a new charter was granted they would be governed by Penn under his patent or charter of 1681, and the Act of Union; and surrendered to him the charter of 1683 (*C*, i, p. 612).

October 14th, 1700, the new Assembly came in, and all parties renewed the effort to make a new Frame of Government (*V*, i, p. 123). There were only four members in this Assembly from each County as the charter of 1683 guaranteeing six members was surrendered (*Do.*). Penn said he convoked them because a new frame of government is needed, and a body of laws. He told them to attend to three objects, (1) revise the laws, (2) settle property, titles, etc., (3) raise a money supply for the Government (*C*, i, p. 615). By October 19th, they had drawn a rough draft of a charter (*V*, i, p. 124) but the three Counties of Delaware were to have fewer Assemblymen than the three Counties composing Pennsylvania. November 4th, they determined to secede if this were so. The Assemblymen of Pennsylvania told them, they always used their equal power to deadlock legislation, that Pennsylvania had many more people than they, and that if they would not agree to a smaller

number of Assemblymen they should secede, and they did. This hurt Penn very much (*V*, i, p. 130).

The new charter passed Assembly November 13, 1700 (*V*, i, pp. 135 to 140), and November 27, 1700, a new body of laws was passed and the laws declared approved by Penn (*C*, i, p. 624). The charter, however, he held under consideration, and prorogued the Assembly to April 1, 1701 (*Do.*).

In this interim, the body of laws just passed did not meet public approbation, and the Assembly of 1701 settled down to a review of the work of the Assembly of 1700 (2 *St. L.*, p. 142). This Assembly did not meet until August 1, 1701 (*V*, i, p. 140), and September 5th Penn told them to think out quickly provisions for their safety, privileges and rights in property, as he must soon go back to England (*C*, ii, pp. 34 and 35).

They spent most of their time in securing themselves against abuses which they said the people suffered from Penn's land policies, and mentioned a long list of grievances, and they seemed to be little concerned about a new charter of liberties and privileges (*V*, i, p. 147). Penn was much displeased, and said the land question was mostly his affair, but he would grant them relief (*V*, i, p. 153).

October 4th, the Assembly read the heads of a new charter and presented them to Penn (*V*, i, p. 151). He amended it and handed it back to them October 23d. They agreed to the amendments (*Do.*, p. 161), finished their debate October 27th, and the next day Penn signed it (*V*, i, p. 163, and *C*, ii, p. 56).

He signed also the re-enacted body of laws the same day (*C*, ii, p. 56). These laws consisted of 96 of the 104 passed in November, 1700, which were re-enacted (*St. L.*, ii, pp. 142 to 160), and a few other laws. And to make it clear that this code of 1701 was the whole body of laws, they repealed every other law passed from the first day of the Province to date (*St. L.*, ii, p. 148).

This new body of laws was a distinct triumph in the march and rise of popular power. Among them there was

one on liberty of conscience, 32 composing a criminal code, one regulating interest, 3 on the privileges of freemen, 3 on land titles and transfers, one on the care of the poor, 30 on civil procedure, 15 on the rights and estates in land, 15 on taxes, governmental regulation and police, and a law, making ground rents extinguishable (*St. L.*, pp. 142, 148, 160).

But the crowning glory of all this work of nearly 20 years by the ancient fathers of the Province and defenders of the common people, was the new charter of 1701. In this charter the common people secured popular privileges in the freest and fullest degree; and it is no wonder they were content to live under it up to the Revolution. Popular power had risen to a noble height and achieved a splendid triumph. Markham's charter of 1686 was liberal indeed; but this one vastly surpassed it.

In this charter Penn recites that the charter of 1683 was found not suitable to the people's needs, and was given up to him in May, 1700, and he promised to restore it with amendments; he now does so restore a charter (*C*, ii, p. 57). This charter limits participation in government to such as believe in Christ as the Saviour. Belief in God is not enough.

It provides there shall be a yearly Assembly, chosen by freemen, consisting of four members from each County, to meet at Philadelphia, annually, October 14th. The Assembly shall be able to choose their own officers, judge of the qualifications and elections of their members, sit on their own adjournments, appoint committees, prepare bills and pass them into laws, have all other powers and privileges of an Assembly, according to the rights of free-born subjects of England, including power to impeach criminals. The people also have in this charter the right to elect a double number for sheriffs and coroners for three years, out of whom the Governor was required to select those he preferred within three days, otherwise the one having the highest vote was entitled to the office. Criminals were given the same rights and privileges as to witnesses and counsel as

prosecutors had. No person could be compelled to answer any complaint, matter, or thing as to property before the Governor and Council, but only in the Courts. No license to sell liquor could be granted by the Governor unless recommended and approved by the Courts. This charter could not be changed or diminished, except six-sevenths should agree to the same. And finally, Penn solemnly confirms and grants all the privileges mentioned in this charter to the people, against himself, his heirs and assigns forever; and he covenants that neither he nor his heirs ever may or shall procure or do anything whereby the liberties in the charter granted should be broken or diminished, and that anything done by himself, his heirs, or by any one else contrary to the charter should be void. The charter also provided that if the three Counties on the Delaware should separate from the Province, that each County in Pennsylvania should be entitled to eight Assemblymen and the City of Philadelphia to two.

It is also to be noticed that there is no mention of a Council in this charter. It is not recognized in the instrument. And thus one of the greatest bones of contention was thrown aside. The Governor, however, continued to have a Council as his advisers; but they were merely such persons as he saw fit to select without particular jurisdiction and powers, instead of the former elective councillors. By this change Council lost both its dignity and power.

Of the new constitution of 1701, Governor Evans said in 1706, by it "the people forced Penn to rob himself of his rights in the Government and in his property, and that David Lloyd was at the head of it, and he and his associates meant, by it, to overthrow the fundamentals of English constitution *and establish a Government more nearly like a republic*" (*C*, ii, p. 325). The Assembly replied that it was Penn's own proposal; and was drawn up by his cousin, Parmyter (*V*, i, Part 2, p. 150). We may simply, by way of comment, say that, if Governor Evans' charge is true, it proves very clearly the great rise and advancement made

by popular power in Pennsylvania between 1681 and 1701. This gives Pennsylvania the honor of being first of all the thirteen colonies aspiring to create the Republic of the United States.

Let us now summarize the several lines of the growth and rise of popular power in Pennsylvania during the score of years we have just discussed.

I. First in importance was the rise of the power in the Assembly to originate legislation. Under the King's charter the people could not do this; nor could they under the first Frame of Government. But they rebelled against, disregarded and violated the restriction. They *did* propose laws without legal power to do so. They retraced their steps somewhat, under the charter of 1683; exercised the initiative under Blackwell; for a while gave up the power under Fletcher; re-asserted it under Markham; and firmly grounded and planted their exclusive right to propose laws, in the Constitution of 1701, to which Penn fully conceded.

II. The right of the people's representatives in Assembly to control the procedure of their own house. In the beginning the people had no voice in fixing the time, regularity or *place* of the meetings of Assembly. They could not sit by Committee, nor sit upon their own adjournments. But they gained these rights. They assert the right to arrest any who disobey their orders; they take the oath of secrecy; they deny the Governor the right of veto upon their acts. They sit upon their own adjournments and by Committees. They assert the right to interpret their laws and judge of their validity; and by 1701, they have gained every power in legislative procedure known to the most liberal legislative Assembly anywhere.

III. The people gain the right to have a fixed number of Assemblymen, regularly elected by themselves. At first Penn could determine how many representatives there should be, or whether there should be any, or whether the people should act simply in the mass. But they early secured the

right to elect a part of their Assemblymen each year and later the entire Assembly annually. At first the number of representatives was large and impractical; but gradually they fixed upon the most effective number. Though once or twice the number was diminished until it was nearly as small as Council, they finally increased it again to eight members for each County annually elected by them; and had the satisfaction of seeing Council lose its recognition by the Charter entirely.

IV. The people shook the grip of the Governor off their Assembly by freeing them to sit upon their own adjournments, whereby the independence of the popular branch was assured.

V. The Assembly also gradually beat back the encroachments of Council upon them. They forced Council to give up the right of proposing legislation, the right of conducting chancery Courts, the right to send a Committee only to meet the Assembly, and the right to interfere with or in any way dictate to Assembly and saw it ignored by the Constitution.

VI. The Assembly, from the beginning, heard on petition many grievances which were the subjects of suits in Courts, and freely decided what matters should be sent to the Courts and what *they* would hear. They, as well as Council, did not hesitate to call judges before them to compel the Courts to explain why the judgments were not satisfactory to all litigants. They even sent for judges and arrested them. They did not hesitate to call judges who refused to obey them, "betrayers of the people." They insisted throughout that the Court proceedings were at all times subject to the Assembly's supervision.

VII. The Assembly justifying it by the claim that they represented the people, always asserted the right to make the Governor and Council yield to them, and gradually by inching out on this line, they brought, in the end, both the Governor and the Council under their beck and command.

VIII. The fight for popular power "*generally*" won its victories step by step. Each of the four constitutions, viz:—1682–1683, 1696 and 1701, were more liberal than what preceded it, the Constitution of 1682 being itself more liberal than the King's charter of 1681. Step by step (except in the charter of 1683) in every branch of Government, the appointive power gave way to the elective power, and life tenures were abolished and made definite terms of office within popular disposal.

IX. Government by proprietary ordinance, allowed in 1681 by the King's charter, and reserved by Penn in his charter of 1682 and of 1683, fell into disuse because of popular indignation, and was not recognized in the charters of 1696 and 1701.

X. The control of taxation, which in 1682 was in the proprietary and Council, passed by constant contest by the Assembly into the people's control and management.

XI. The right of suffrage which first had to be exercised according to such qualifications as Penn prescribed, was broadened and made definite by the Assembly passing laws extending the suffrage in a very liberal manner by 1701. And when it was so extended, it was made sure and inviolable by safeguards making elections free and voluntary, and the qualifications certain and equal, allowing no privileged classes.

XII. The people's rights in the land owned by Penn were gradually well defined and guaranteed against the proprietor and his heirs; rents out of them were brought to system under which there could be no discrimination, and quit-rents, first intended to exist forever, could now be extinguished.

XIII. Many other popular privileges took form and finally crystallized into great fundamental rights in these twenty years. The ancient dwellers in Pennsylvania were naturalized; the Germans, also, who first came and settled near Philadelphia; the rights of freemen were fixed; the great law of 79 chapters was passed; the petition of rights and act

of settlement finally granted and enacted; the right of the people to criticise the rulers was established; the right of the Constitution to be printed and disseminated was granted; the right and rise of the Assembly to be the recognized voice of the people, became fixed. And a government somewhat like a republic began its course of seventy-five years in Pennsylvania, which with the help of twelve other colonies, at the end of that time, had built the foundation in America upon which the Revolutionary War could be fought without crashing through the base; and upon which after that war, the pillars of the Republic were planted and have firmly and safely stood bearing the tremendously increased weight of years for a century and a quarter.